

AMENDED IN ASSEMBLY MAY 14, 2001

AMENDED IN ASSEMBLY APRIL 16, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 603

Introduced by Assembly Member Dutra

February 22, 2001

An act to amend Sections 19089.5, 19161, and 19170 of the Business and Professions Code, relating to home furnishings.

LEGISLATIVE COUNSEL'S DIGEST

AB 603, as amended, Dutra. Home furnishings.

(1) The Home Furnishings and Thermal Insulation Act, which establishes the Bureau of Home Furnishings and Thermal Insulation, requires, among other matters, that all mattresses manufactured for sale in this state as well as specified furniture sold or offered for sale for use in a place of public accommodation in this state and specified reupholstered furniture be fire retardant. Under the act, the failure to comply with these provisions is a crime.

This bill would require, on and after January 1, 2004, that all mattresses and box springs manufactured for sale in this state, except in specified establishments with automatic fire extinguishing systems, be resistant to an open flame under a standard specified by the bureau. The bill would ~~provide~~ *require* that this requirement ~~is~~ *may* be made applicable to other bedding ~~products~~ if the bureau concludes that they contribute to mattress fires. The bill would make these regulations inoperative if a flame resistance standard for ~~mattresses and box springs~~ *these products* is adopted under federal law and would require the

bureau to report to the Legislature ~~on its progress in developing these regulations summarizing its regulatory findings.~~

(2) Existing provisions of the act authorize the chief of the bureau to set license fees not exceeding specified amounts for licenses under the act.

This bill would increase the maximum fees that could be set for an importer's license and a furniture and bedding manufacturer's license under the act.

(3) Because a violation of the bill's expanded fire protection standard applicable to mattresses would be a crime, this bill would impose a state-mandated local program by expanding the scope of an existing crime.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 ~~(1) On average, 28,000 residential mattress fires occur~~
4 ~~annually in the United States, killing 571 people, severely injuring~~
5 ~~3,000 others, and causing three hundred thirty-four million dollars~~
6 ~~(\$334,000,000) in property damage. Many of these victims are~~
7 ~~young children. Nearly one-half of these fires, 13,000, are caused~~
8 ~~by small open flame sources.~~

9 ~~(2) The single greatest ignition factor in mattress and bedding~~
10 ~~fires is a child playing with matches or a lighter. Children under~~
11 ~~the age of five years start one-third of all mattress fires, and~~
12 ~~children under the age of 14 years caused two-thirds of the open~~
13 ~~flame mattress ignitions. On average, 75 percent of all fire deaths~~
14 ~~are caused by smoke inhalation.~~

15 ~~(3) The resistance of residential mattresses to smoldering~~
16 ~~cigarettes was regulated in 1973 by the United States Consumer~~
17 ~~Product Safety Commission (CPSC) under the federal Flammable~~

1 ~~Fabrics Act (15 U.S.C. Sec. 1191 et seq.). However, the CPSC~~
2 ~~standard in Sections 1632 and following of Title 16 of the Code of~~
3 ~~Federal Regulations did not address the risk of open flame ignition~~
4 ~~of mattresses or their specific components.~~

5 ~~(4) Despite the CPSC regulations, the death rate per thousand~~
6 ~~attributed to open flame mattress fires has actually increased since~~
7 ~~the adoption of these regulations in 1973. The unregulated, yet~~
8 ~~highly combustible, foam cushioning components in residential~~
9 ~~mattresses constitute the primary fuel in a mattress fire. The foam~~
10 ~~components in the mattress burn rapidly enough to prevent escape~~
11 ~~and to cause severe burn or inhalation injuries before emergency~~
12 ~~personnel can respond. There exists no tangible evidence of the~~
13 ~~effect of CPSC regulations on open flame mattress ignition, or~~
14 ~~with regard to the foam cushioning fuel component.~~

15 ~~(5) The State of California recognizes that a proportionate~~
16 ~~number of the deaths and injuries described in paragraph (1) from~~
17 ~~mattress fires occur annually in this state. The severe burn victims~~
18 ~~tend to be members of lower socioeconomic populations and are~~
19 ~~treated at state funded burn units under the Medi-Cal program.~~
20 ~~The cost to initially treat a severely burned child in a state-funded~~
21 ~~burn unit exceeds two hundred fifty thousand dollars (\$250,000)~~
22 ~~per month, and this treatment lasts two to four months.~~

23 ~~(6) The United Kingdom banned the use of foam in residential~~
24 ~~mattresses in 1988. In the United States, many state and federal~~
25 ~~facilities, including military facilities, dormitories, prisons,~~
26 ~~mental health care facilities, and other state institutional buildings~~
27 ~~are required to be furnished with flame retardant mattresses. The~~
28 ~~state, therefore, recognizes that an elimination of the fire hazard~~
29 ~~necessarily requires that the foam cushioning be either flame~~
30 ~~retardant or isolated from ignition sources through the use of a fire~~
31 ~~blocking layer known as a barrier. For more than 10 years,~~
32 ~~mattresses have been made open flame resistant through the use of~~
33 ~~modified foams and barriers.~~

34 ~~(7) The State of California, therefore, recognizes that no~~
35 ~~applicable federal flammability standard exists that either~~
36 ~~addresses the open flame mattress fire risk or the open flame foam~~
37 ~~cushioning risk. Further, the state of the art technology in open~~
38 ~~flame resistant mattress components has advanced to the point that~~
39 ~~these very risks can be minimized or eliminated by the inclusion~~
40 ~~of this technology in residential mattresses. The federal cigarette~~

~~standard in Part 1632 of Title 16 of the Code of Federal Regulations has not been revised in accordance with this technology in either open flame mattress fire performance or in open flame foam cushioning fire performance.~~

~~(b) The Legislature declares that because of an absence of federal regulation, this act establishes an open flame flammability standard for foam cushioning used in residential mattresses manufactured for sale in the State of California.~~

(a) Mattresses are currently subject to federal and state flammability requirements. In the early 1970s, the United States Consumer Product Safety Commission (the CPSC) established the Federal Mattress Flammability Standard, which requires that mattresses resist ignition by smoldering cigarettes. In addition, the bureau and the mattress industry developed California Technical Bulletin 129 (TB-129), which establishes an open-flame standard for mattresses used in high-occupancy institutional settings such as prisons, dormitories, and hospitals. TB-129, in turn, provided the impetus for ASTM E 1590, a consensus standard promulgated by the American Society for Testing and Materials to establish product performance test methods for mattresses used in institutional settings.

(b) Beginning in the 1990s, national fire statistics indicated that the Federal Mattress Flammability Standard did not materially affect the incidence of residential mattress fires ignited by small open flames. More recent research conducted by the CPSC, the fire safety community, and private industry also shows that in many mattress fires involving open-flame ignitions, the bedding, which includes the pillow, comforter, and bedspread, is the first product to ignite, as opposed to the mattress itself.

(c) As a result, the mattress industry commissioned the National Institute of Standards and Technology (NIST) to conduct scientific research into the interaction between ignited bedding and a mattress. In 2000, NIST published the results of its initial research, which indicate that bedding and box springs, also known as the mattress foundation, have a material impact on the rate at which a mattress ignites and the resulting fire spreads, as well as the fire's intensity and the risk that it will spread beyond the bedroom. NIST's continuing research will use computer models to estimate the number of fire-related casualties that can be avoided

1 *if the fire size and spread rate for bedding and mattress-related*
2 *fires are reduced to specified levels.*

3 *(d) Although Section 19161 of the Business and Professions*
4 *Code, within the Home Furnishings and Thermal Insulation Act*
5 *(Chapter 3 (commencing with Section 19000) of Division 8 of the*
6 *Business and Professions Code), requires that all mattresses sold*
7 *in this state be fire retardant, it does not authorize the bureau to set*
8 *flammability standards for bedding or box springs. This act would*
9 *authorize the bureau to better protect the public from open-flame*
10 *ignited mattress fires by establishing flammability standards for*
11 *not only mattresses, but also for box springs and bedding, as the*
12 *bureau considers appropriate.*

13 SEC. 2. Section 19089.5 of the Business and Professions
14 Code is amended to read:

15 19089.5. Any upholstered furniture or mattress ~~which~~ *that is*
16 *made from or contains nonflame retardant cellular foam shall be*
17 *labeled in a manner approved by the chief. On and after January*
18 *1, 2004, all bedding that is made from or contains nonflame*
19 *retardant cellular foam shall also be labeled in a manner approved*
20 *by the chief. Notwithstanding the provisions of this section, no*
21 *label is required for a product that complies with the regulations*
22 *required by Section 19161 or with applicable federal flammability*
23 *regulations.*

24 SEC. 3. Section 19161 of the Business and Professions Code
25 is amended to read:

26 19161. (a) All mattresses and box springs manufactured for
27 sale in this state shall be fire retardant. The bureau shall adopt
28 regulations no later than January 1, 2004, requiring that fire
29 retardant mattresses and box springs meet ~~the~~ *a* resistance to open
30 flame test that uses a pass or fail performance criteria based on a
31 test method developed by the bureau or that is based on ASTM
32 1590. If the bureau concludes that other bedding ~~products~~
33 ~~contribute~~ *contributes* to mattress fires, the regulations shall
34 require the other bedding ~~products~~ to be flame retardant under the
35 resistance to open flame test. If feasible, the ~~bureau~~ *bureau's*
36 regulations shall permit a manufacturer to comply with the
37 resistance to open flame test by testing a small scale version of its
38 product. In developing these regulations, the bureau may contract,
39 cooperate, or otherwise share resources with other government
40 agencies, private organizations, or independent contractors that it

1 considers appropriate for purposes of reviewing test criteria and
 2 methods, equipment specifications, and other relevant subjects.
 3 These regulations shall become inoperative upon the effective date
 4 of any federal law or regulation establishing an open flame
 5 resistance standard for mattresses and box springs *these products*.
 6 The bureau shall submit ~~two reports to the Legislature on its~~
 7 ~~progress in developing these regulations. The bureau shall submit~~
 8 ~~the first report on or before July 1, 2002, and the second report on~~
 9 ~~or before July 1, 2003. a report to the Legislature on or before~~
 10 *January 1, 2004, summarizing its regulatory findings.*

11 (b) Requirements for flame resistant mattresses, box springs, or
 12 other bedding products shall not apply to any hotel, motel, bed and
 13 breakfast, inn, or similar transient lodging establishment that has
 14 an automatic fire extinguishing system that conforms to the
 15 specifications established in Section 904.1 of Title 24 of the
 16 California Code of Regulations.

17 (c) All seating furniture sold or offered for sale by an importer,
 18 manufacturer, or wholesaler for use in this state, including any
 19 seating furniture sold to or offered for sale for use in a hotel, motel,
 20 or other place of public accommodation in this state, and
 21 reupholstered furniture to which filling materials are added, shall
 22 be fire retardant and shall be labeled in a manner specified by the
 23 bureau.

24 (d) “Fire retardant,” as used in this section, means a product
 25 that meets the regulations adopted by the bureau. This does not
 26 include furniture used exclusively for the purpose of physical
 27 fitness and exercise.

28 SEC. 4. Section 19170 of the Business and Professions Code
 29 is amended to read:

30 19170. (a) The fee imposed for the issuance and for the
 31 biennial renewal of each license granted under this chapter shall
 32 be set by the chief, with the approval of the director, at a sum not
 33 more nor less than that shown in the following table:

	Maximum fee	Minimum fee
37 Importer’s license	\$750	\$120
38 Furniture and bedding manufacturer’s 39 license	750	120

1	Wholesale furniture and bedding		
2	dealer's license	540	120
3	Supply dealer's license	540	120
4	Custom upholsterer's license	360	80
5	Sanitizer's license	360	80
6	Retail furniture and bedding dealer's license	240	40
7	Retail furniture dealer's license	120	20
8	Retail bedding dealer's license	120	20

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10 (b) Individuals who, in their own homes and without the
 11 employment of any other person, make, sell, advertise, or contract
 12 to make pillows, quilts, quilted pads, or comforters are exempt
 13 from the fee requirements imposed by subdivision (a). However,
 14 these individuals shall comply with all other provisions of this
 15 chapter.

16 (c) Retailers who only sell “used” and “antique” furniture as
 17 defined in Sections 19008.1 and 19008.2 are exempt from the fee
 18 requirements imposed by subdivision (a). Those retailers are also
 19 exempt from the other provisions of this chapter.

20 (d) A person who makes, sells, or advertises upholstered
 21 furniture and bedding as defined in Sections 19006 and 19007, and
 22 who also makes, sells, or advertises furniture used exclusively for
 23 the purpose of physical fitness and exercise, shall comply with the
 24 fee requirements imposed by subdivision (a).

25 SEC. 5. No reimbursement is required by this act pursuant to
 26 Section 6 of Article XIII B of the California Constitution because
 27 the only costs that may be incurred by a local agency or school
 28 district will be incurred because this act creates a new crime or
 29 infraction, eliminates a crime or infraction, or changes the penalty
 30 for a crime or infraction, within the meaning of Section 17556 of
 31 the Government Code, or changes the definition of a crime within
 32 the meaning of Section 6 of Article XIII B of the California
 33 Constitution.

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